

Order Below Exh. 25

1. This is an application filed by opponent no. 2 to 4 for directing opponent no. 1 to produce entire record available with him regarding Santosh Magasvargiya Gruh Nirman Sanstha Maryadit. Perused the application and say filed by the disputant vide exh. 26. Heard learned advocates for both sides at length. Perused the record.

2. It is contended by the opponents that there had been vital correspondences, communication letters from opponent no. 1 to the said society and from the said society to the opponent no. 1 which are necessary for the adjudication of the present dispute. Therefore it will be in the interest of justice to call for entire record in regard to the abovesaid society from the opponent no. 1 and will also be helpful for asceraning the actual facts and circumstances of the present matter and for passing the appropriate orders. Hence they prayed to grant the application.

3. Disputant has filed his say vide Exh. 26 and opposed the application. It is stated by the disputant that the application is pre mature and clearly abuse of process of law. The opponent can himself get its copies and file it as more particularly the opponent is coming with theory that he is the real owner. The application is devoid of merits and hence knidly be rejected.

4. The power of the Court to direct production of documents from a party is intended to aid adjudication of the real controversy between the parties. However, such power presupposes that the party against whom the direction is sought is before the Court and is participating in the

proceedings. When a party has chosen not to appear and is ex-parte, the Court cannot effectively secure compliance of such a direction.

5. In the present case, opponent No. 1 has not appeared in the dispute. Neither the steps have been taken by opponent no. 2 to 4 to secure the presence of opponent no. 1 nor is there any application for issuing summons to him in any other capacity for production of said documents. In absence of appearance of opponent no. 1, a direction to him to produce documents would be merely incapable of enforcement.

6. It is also material that the applicants have not asserted that the documents are in possession of the disputant or of any other party who is actually before the Court. Their own case is that the documents are with opponent No.1 Thus, no direction can be issued to the disputant to produce those documents, and the application, as framed, is confined only to opponent No.1 who is not participating in the proceedings.

7. Further, opponent no. 2 to 4 have not given specific particulars of the documents with sufficient clarity nor explained how, without those documents, they would be completely unable to lead their evidence or prove their defence. The burden to establish their defence lies upon them, and the failure of opponent no. 1 to assist them cannot by itself, be a ground to pass an ineffectiv order.

8. In these cicumstances, the application is not maintainable against an absent opponent no. 1 and no enforceable direction can be issued. Opponent no. 2 to 4 are at liberty to adopt any other remedy available in eyes of law to prove their defence, but the present prayer for production of

documents from opponent no. 1 cannot be granted. Hence the application does not merit acceptance and is liable to be rejected. In the result, the following order is passed.

ORDER

1. Application Exh. 25 is rejected.
2. No order as to costs.

Date : 29.11.2025

(Manisha N. Thorat)
Judge, Co operative Court,
Aurangabad.

Tukaram Vs. Santosh Magasvargiya
Gruh Nirman Sanstha Maryadit & ors.
CNR No. : MHCO200000612024

C E R T I F I C A T E

I affirm that the contents of this PDF file are word to word same as per original Judgment/Order.

Name of the Stenographer : Smt. S.S. Shingade

Court : Co operative Court, Aurangabad

Judgment/Order Signed by P.O. On : 29.11.2025

Judgment/Order uploaded on : 29.11.2025